

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12504 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

PATEL KANTILAL SOMABHAI

Versus

STATE OF GUJARAST

Appearance:

1. Special Civil Application No. 12504 of 2004
MR NIRZAR S DESAI for Petitioner No. 1-49
MR SP HASURKAR, AGP for Respondent No. 1-2
MR HS MUNSHAW for Respondent No. 3
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CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 07/02/2005

ORAL JUDGEMENT

Learned advocate for the petitioner seeks
permission to delete respondent No.4. Permission

granted. Respondent No.4 stands deleted.

2. Rule. Learned AGP Mr.Hasurkar waives service of rule on behalf of respondent Nos.1 & 2 and learned counsel Mr.Munshaw waives service of rule on behalf of respondent No.3. At the joint request of the learned advocates appearing for the parties, the petition is taken for final disposal today.

2. It is unfortunate that for implementation of the directives issued by the Government to the District Panchayat, the petitioners have to approach this Court. The petitioners who were initially engaged as Balgurus have later on on conversion of the scheme have been absorbed as Vidyasahayaks in which position they are discharging their duties currently. The petitioners applied for transferring them to various places of their choice. The State Government through the Director of Primary Education accepted the request of the petitioners to the extent possible. The said decision was conveyed by the order dated 6.8.03 to the District Primary Education Officer, Valsad District. Despite this decision, the transfers were not taking place as directed. Complaints in this regard were made to the Director of Primary Education. A communication dated 12.3.04 therefore came to be issued by the Director of Primary Education directing the District Primary Education Officer to carry out transfers as per the directives after the elections are over in summer vacation of the year 2004. Despite these directions since no steps were taken for effecting the transfers, the petitioners preferred the present petition.

3. There is no dispute raised by the respondents that directions were in fact issued by the Director of Primary Education on 6.8.03 and 12.3.04. No justifying reasons have been put forth by the District Primary Education Officer to ignore these directives. If there are any difficulties in carrying out these orders, it was the duty of the District Primary Education Officer to sort out the issues with the Director of Primary Education. Once, however, the Director of Primary Education who is the competent authority to decide the issues of transfer gives direction, it was not possible for the District Primary Education Officer to ignore such directives without any valid reasons.

4. In the result, respondent No.3 is directed to implement the abovementioned orders dated 6.8.03 and 12.3.04 as expeditiously as possible. He will ensure that at least during the summer vacation of academic year

2005, the said orders are implemented so that proper arrangements can be made by the teachers and the schools concerned. With these directions, the petition is allowed. Rule is made absolute accordingly with no order as to costs.

Direct service.

(Akil Kureshi, J.)

(vjn)